

CHAPTER NO. 890

HOUSE BILL NO. 3017

By Representatives Tindell, Davidson

Substituted for: Senate Bill No. 3094

By Senators Cohen, Graves

AN ACT to amend Tennessee Code Annotated, Title 3; Title 4; Title 39 and Title 48, relative to annual events for the purpose of raising money for the benefit of the §501(c)(3) organizations, pursuant to Article XI, Section 5 of the Constitution of Tennessee.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 3-17-102(a)(1), as enacted by Chapter 476 of the Public Acts of 2004, as amended by Chapter ___ of the Public Acts of 2004 (House Bill 3390 / Senate Bill 3078), is amended by deleting subdivision (1) and by substituting instead the following:

(1) A §501(c)(3) organization seeking to operate an annual event for the benefit of such organization located in this state shall submit an annual event application to the secretary:

(A) By twelve o'clock (12:00) noon Central Daylight Time (CDT) on April 20, 2004, for the annual event period beginning July 1, 2004, and ending June 30, 2005;

(B) Prior to November 1, 2004, for the annual event period beginning July 1, 2005, and ending June 30, 2006; and

(C) Prior to November 1 in any subsequent year for subsequent annual event periods.

Annual event applications shall not be considered submitted to the secretary until in the physical possession of the secretary as evidenced by the secretary's date and time endorsement on such documentation.

SECTION 2. Tennessee Code Annotated, Section 3-17-103, as enacted by Chapter 476 of the Public Acts of 2004, as amended by Chapter ___ of the Public Acts of 2004 (House Bill 3390 / Senate Bill 3078), is amended by deleting subsection (a) and by substituting instead the following:

(a) All annual event applications shall be submitted to the secretary. For the annual event period beginning July 1, 2004, and ending June 30, 2005, such applications shall be submitted by twelve o'clock (12:00) noon Central Daylight Time (CDT) on April 20, 2004. For the annual event period beginning July 1, 2005, and ending June 30, 2006, such applications shall be submitted from July 1, 2004, through October 31, 2004. For subsequent annual event periods, such applications shall be submitted from July 1 through October 31 in any subsequent year. Such applications shall include:

(1) The name of the §501(c)(3) organization and the purpose for which it was organized;

(2)

(A) The physical address, in Tennessee, of the §501(c)(3) organization; provided that if the organization has multiple chapters or affiliates in Tennessee operating under the same tax exemption, the physical addresses of such multiple locations. For the purposes of this chapter, a post office box, or similar address at a mail or package delivery service, shall not be considered a physical address; and

(B) If the principal office of the §501(c)(3) organization is outside Tennessee, the physical address of such principal office;

(3)

(A) The mailing address, in Tennessee, of the §501(c)(3) organization; for the purposes of this chapter, such mailing address shall serve as the primary mailing address of the applicant; provided that if the organization has multiple chapters or affiliates in Tennessee operating under the same tax exemption, the mailing addresses of such multiple locations; and

(B) If the principal office of the §501(c)(3) organization is outside Tennessee, the mailing address of such principal office;

(C) The §501(c)(3) organization shall designate a named person who is a citizen of Tennessee to receive process at the primary mailing address of the applicant. The name of such person shall be listed in the annual event application;

(4)

(A) The telephone number, in Tennessee, of the §501(c)(3) organization or its chair, president or chief administrative officer; and

(B) If the principal office of the §501(c)(3) organization is outside Tennessee, the telephone number of such principal office;

(5) The place where, and the date when, the organization was legally established and documentation from the Internal Revenue Service recognizing the §501(c)(3) organization's tax exempt status. Such documentation shall be supported by an affidavit from the §501(c)(3) organization's chair, president or chief administrative officer affirming that the organization's §501(c)(3) status has not been revoked;

(6) A copy of organizational documents and any other documents that prove to the satisfaction of the secretary that the §501(c)(3) organization has been in continuous and active existence as a §501(c)(3) organization located in Tennessee for at least five (5) years immediately preceding the event date listed in the annual event application. The secretary may promulgate rules and regulations as to the type, and quantity, of documentation necessary for proof of continuous and active existence. Such documentation shall be

supported by an affidavit signed by the §501(c)(3) organization's chair, president or chief administrative officer and secretary affirming that the organization has been in continuous and active existence in Tennessee for at least five (5) years immediately preceding the event date listed in the annual event application;

(7) For §501(c)(3) organizations formed after October 9, 1969, a copy of the organization's Internal Revenue Service Form 1023, including any attached schedules. If a §501(c)(3) organization has requested a duplicate copy of such Form 1023 from the Internal Revenue Service, an affidavit from the §501(c)(3) organization's chair, president or chief administrative officer affirming that such organization has, in the past, filed a Form 1023 with the Internal Revenue Service and, subsequently, requested a duplicate copy of such Form 1023 from the Internal Revenue Service. Upon receipt of such Form 1023, the §501(c)(3) organization shall file a copy with the secretary; provided that nothing in this subsection (a)(7) shall be construed to exclude a §501(c)(3) organization from inclusion on the omnibus list so long as an affidavit in accordance with this subsection (a)(7) is filed with the annual event application;

(8)

(A) For annual event applications submitted prior to November 1, 2004:

(i) A copy of the §501(c)(3) organization's last five (5) annual reports filed with the Internal Revenue Service (Form 990, 990-EZ, or 990-PF) and any attached schedules for the five-year period immediately preceding the annual event application; or

(ii) If such organization has not filed any such annual reports with the Internal Revenue Service or has not filed five (5) consecutive annual reports for the five-year period immediately preceding the annual event application, an affidavit from the §501(c)(3) organization's chair, president or chief administrative officer affirming that the organization has not filed any annual reports or has not filed five (5) consecutive annual reports and shall begin to file annual reports as required by the provisions of this chapter. In addition, any such organization shall submit copies of any annual reports filed with the Internal Revenue Service within the five-year period preceding the application;

(B) For annual event applications submitted between July 1, 2005, and October 31, 2009:

(i) A copy of the §501(c)(3) organization's last five (5) annual reports filed with the Internal Revenue Service (Form 990, 990-EZ, or 990-PF) and any attached schedules for the five-year period immediately preceding the annual event application; or

(ii) If such organization has not filed five (5) consecutive annual reports for the five-year period immediately preceding the annual event application, a copy of the §501(c)(3) organization's annual report filed with the Internal Revenue Service (Form 990, 990-EZ, or 990-PF) for the preceding year and any attached schedules and copies of any other annual reports filed with the Internal Revenue Service within the five-year period preceding the application;

(C) For annual event applications submitted on and after July 1, 2010, a copy of the §501(c)(3) organization's last five (5) annual reports filed with the Internal Revenue Service (Form 990, 990-EZ, or 990-PF) and any attached schedules for the five-year period immediately preceding the annual event application;

(9) A waiver of privacy rights, on a form provided by the secretary, which will allow posting of documents on the secretary's web site and inspection by any member of the public of tax forms and documents filed pursuant to this chapter;

(10) The names and addresses of the officers, directors, trustees, and the principal salaried executive staff officer of the §501(c)(3) organization;

(11) A statement that no officer, director, trustee, or the principal salaried executive staff officer of the §501(c)(3) organization has been convicted of a violation of §39-14-103, §39-14-104, §39-14-105, §39-16-702, §39-16-703, title 39, chapter 17, parts 5 or 6 or a similar offense in another jurisdiction;

(12) A copy of the minutes from the meeting of the §501(c)(3) organization indicating the intent to operate an annual event if authorized by the general assembly. Such minutes shall reflect an affirmative vote by a majority of the directors or officers of the organization to operate such annual event. In lieu of a copy of the minutes, an affidavit signed by all directors or officers of the organization indicating the intent to operate an annual event if authorized by the general assembly;

(13) The name of the annual event;

(14)

(A) The single type of lottery game to be conducted and a description of the game; and

(B) The estimated number of tickets, shares, chances or other similar records to be offered and the actual dollar amount at which a ticket, share, chance or other similar record shall be sold;

(15) The event date; provided that the event date shall be selected within a twelve-month period beginning July 1 following the application deadline and ending the next June 30;

(16) The location, or locations, of the annual event including, at a minimum, each county in which the annual event will be operated in accordance with §3-17-102(a)(3)(B)(i).

(17) If applicable, the event date of the last annual event held, or to be held, by the organization;

(18) If applicable, in accordance with §3-17-102(a)(4)(B), a joint statement of authorization indicating the intention to conduct a joint annual event and listing all organizations participating in such joint event. For the purposes of this subdivision, the applicant shall list each organization which will participate in the joint event and shall include each such organization's physical address and mailing address in Tennessee;

(19) The charitable, religious, educational, scientific or other humanitarian purposes or programs for which the funds derived from the annual event shall be used;

(20) The names of the individuals or officers of the organization who will have final responsibility for the custody of the funds derived from the annual event;

(21) The names of the individuals or officers of the organization responsible for the final distribution of the funds derived from the annual event; and

(22) The appropriate application fee.

SECTION 3. Tennessee Code Annotated, Section 3-17-104(d), as enacted by Chapter 476 of the Public Acts of 2004, as amended by Chapter ___ of the Public Acts of 2004 (House Bill 3390 / Senate Bill 3078), is amended by deleting subdivision (2)(B) in its entirety and by substituting instead the following:

(B) For annual event applications submitted by twelve o'clock (12:00) noon Central Daylight Time (CDT) on April 20, 2004, for the annual event period beginning July 1, 2004, and ending June 30, 2005, prior to November 1, 2004, for the annual event period beginning July 1, 2005, and ending June 30, 2006, and prior to November 1 in any subsequent year for subsequent annual event periods, the secretary shall notify any organization that would not otherwise be included on the omnibus list of the reason, or reasons, why such organization would not be included. Such notification shall be made prior to May 10, 2004, and by January 15th in any subsequent year. Any such organization may submit an amended annual event application to the secretary no later than twelve o'clock (12:00) noon Central Daylight Time (CDT) on May 10, 2004, and no later than twelve o'clock (12:00) noon Central Standard Time (CST) on the first day in February in any subsequent year. Any such annual event shall be included on the omnibus list if the amended annual event application complies with the provisions of this chapter.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 19, 2004



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES



JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 8th day of June 2004



PHIL BREDESEN, GOVERNOR